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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|----------------------------|------------------|
| 09/577,515 | 05/24/2000 | Muhammed A. Qureshi | Hernandez-Valencia | 6419 |
| 7590 | 06/14/2005 | | 13-4-7 | |
| Theodore Naccarella Synnestvedt & Lechner LLP 2600 Aramark Tower 1101 Market Street Philadelphia, PA 19107-2950 | | | EXAMINER NGUYEN, TOAN D | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2665 | |

DATE MAILED: 06/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/577,515

Applicant(s)

QURESHI ET AL.

Examiner

Toan D. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,10,17,18 and 26 is/are rejected.
- 7) ☒ Claim(s) 3-9,11-16,19-25 and 27-32 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 June 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1 and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Ma et al (US 5,953,338).

For claim 1, Ma et al disclose dynamic control processes and systems for asynchronous transfer mode networks, comprising the steps of:

(1) identifying a first set of virtual pipelines (figure 7A, reference 702) for which traffic exceeds a predetermined threshold (figures 9A and 9B, col. 8 lines 13-21);

(2) for each virtual pipeline (figure 7A, reference 702) in said set, determining a number of additional channels (figure 7B, reference 703) needed to cause said traffic through said pipeline to not exceed said predetermined threshold (col. 8 lines 27-30);
and

(3) for each pipeline (figure 7A, reference 702) in said first set, assigning a corrective action (figure 7B, col. 12 lines 60-65) and an amount of said corrective action to be taken in said peripheral networks as a function of said number of additional

channels (figure 7B, reference 703) (figure 10, reference 6, col. 12 lines 60-65 and col. 13 lines 42-50).

For claim 17, Ma et al disclose dynamic control processes and systems for asynchronous transfer mode networks, comprising the steps of:

means for identifying a first set of virtual pipelines for which traffic exceeds a predetermined threshold (figures 9A and 9B, col. 8 lines 13-21);

means for determining, for each virtual pipeline (figure 7A, reference 702) in said set, a number of additional channels (figure 7B, reference 703) needed to cause said traffic through said pipeline to not exceed said predetermined threshold (col. 8 lines 27-30); and

means for assigning, for each pipeline (figure 7A, reference 702) in said first set, a corrective action (figure 7B, col. 12 lines 60-65) and an amount of said corrective action to be taken in said peripheral networks as a function of said number of additional channels (figure 7B, reference 703) (figure 10, reference 6, col. 12 lines 60-65 and col. 13 lines 42-50).

3. Claims 2 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ma et al (US 5,953,338) in view of Kim et al (US 6,256,310).

For claims 2 and 18, Ma et al do not disclose wherein step (3) comprises the steps of assigning a call-gapping rate for each switch in the peripheral network contributing traffic to a pipeline for which traffic exceeds said predetermined threshold.

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In an analogous art, Kim et al. disclose the steps of assigning a call gapping rate for each switch in the peripheral network contributing traffic to a pipeline for which traffic exceeds said predetermined threshold (col. 1 lines 37-40 and col. 1 lines 53-56).

One skilled in the art would have recognized a call gapping rate to use the teachings of Kim et al. in the system of Ma et al. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use the call gapping rate as taught by Kim et al in Ma et al's system with the motivation being to provide maximum benefits to a network businessman, in view of a fact that service charges added is different according to the ATM transfer capabilities (col. 1 lines 40-43).

4. Claims 10 and 26 are rejected under 35 U. S. C. 103 (a) as being unpatentable over Ma et al (US 5,953,338) in view of Szentesi (US 5,844,886).

For claims 10 and 26, Ma et al do not disclose wherein said corrective action comprises rerouting calls in said peripheral networks that would so that they pass through a different pipeline in said packet-based network. In an analogous art, Szentesi discloses wherein said corrective action comprises rerouting calls in said peripheral networks that would so that they pass through a different pipeline in said packet-based network (col. 2 lines 25-26). Szentesi discloses further wherein said corrective action comprises rerouting calls in said peripheral networks so that they pass through a different pipeline in said packet-based network (col. 2 lines 25-26 as set forth in claim 26).

One skilled in the art would have recognized rerouting calls to use the teachings of Szentesi in the system of Ma et al. Therefore, it would have been obvious to one of

ordinary skill in the art at the time of the invention, to use the rerouting calls as taught by Szentesi in Ma et al's system with the motivation being to provide additional revenue gains over that obtainable by partially rerouting traffic away from congested network links (Abstract lines 10-12).

Allowable Subject Matter

5. Claims 3-9, 11-16, 19-25 and 27-32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

6. Applicant's arguments filed on 01/10/05 have been fully considered but they are not persuasive.

The applicant argues with respect to claims 1 and 17, that Ma does not teaches "determining a number of additional channels needed to cause said traffic through said pipeline to not exceed said predetermined threshold. The examiner disagrees.

Applicant's attention is directed to Ma patent at col. 8 lines 26-30 where Ma clearly teaches "Similarly, these background processes negotiate with the termination side to add a block of additional bandwidth when a maximum utilization threshold is exceeded in order to anticipate periods of over utilization and accommodate the extra bandwidth demand." Ma further teaches at col. 7 lines 26-38 (figure 8) where Ma clearly teaches "Moreover, if necessary, depending upon the current load conditions, centralized call admission control/monitor module 145 instruct bandwidth manager module 150 to dynamically adjust the size of each virtual path, virtual channel, and virtual path group

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with instructions to and from the CAC at specific ATM switches. ATM switch 130K (and any other ATM switch in the ATM network) adjusts, alter, creates, or destroys the actual size of the virtual path, as instructed by the bandwidth manager module 150, so that, if possible, the call requested by a client to call control module 140 can be made. The CAC at each ATM switch checks every connection created or changed, no matter how or when it is created.” Therefore, Ma does teaches the determining a number of additional channels needed to cause said traffic through said pipeline to not exceed said predetermined threshold as recited in the claims.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

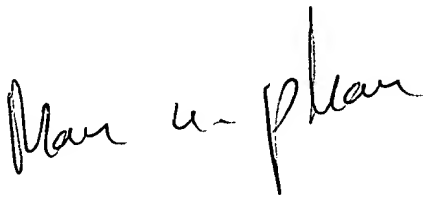
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan D. Nguyen whose telephone number is 571-272-3153. The examiner can normally be reached on M-F (7:00AM-4:30PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Huy Vu can be reached on 571-272-3155. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TN
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MAN U. PHAN
PRIMARY EXAMINER